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c 246 Municipal Drainage Act

Ontario

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CHAPTER 246

The Municipal Drainage Act

INTERPRETATION

1. In this Act,

Interpre-
tation.

- (a) "construction" means the original opening, making, excavating or completing of drainage work;
- (b) "county" includes provisional judicial district;
- (c) "county court" includes district court;
- (d) "court of revision" means a court of revision constituted under this Act for the trial of complaints respecting assessments for drainage work;
- (e) "initiating municipality" means the municipality undertaking the construction of any drainage work to which this Act applies;
- (f) "judge" means the senior, junior, or acting judge of the county or district court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but does not include a deputy judge;
- (g) "maintenance" means the preservation and keeping in repair of a drainage work;
- (h) "municipality" does not include a county, except as an owner within the meaning of clause *i*;
- (i) "owner" or "actual owner" includes the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell or convey the land, an agent of an owner under a general power of attorney or under a power of attorney empowering him to deal with lands, and a municipal corporation as regards highways and bridges under its jurisdiction;
- (j) "public utility" has the same meaning as in *The Ontario Municipal Board Act*, Rev. Stat.,
o. 262.
- (k) "referee" means the referee for the purpose of the drainage laws of Ontario as hereinafter provided;
- (l) "reference" means a reference or transfer to the referee under the provisions of this Act;

- (m) "relief" means relieving from liability for causing water to flow upon and injure lands or roads;
- (n) "sufficient outlet" means the safe discharge of water at a point where it will do no injury to lands or roads. R.S.O. 1937, c. 278, s. 1.

CONSTRUCTION OF DRAINAGE WORK

Undertaking
of works
on petition.

2.—(1) Upon the petition of the majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in the petition within any township, village, town or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of such means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek, or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved or the lake or pond the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within the area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit and for outlet liability and relief from injuring liability as hereinafter defined.

Initiating
proceedings
for drainage
of highway.

Rev. Stat.,
c. 166.

(2) The provisions of this Act shall apply and extend to any case where the drainage work is required for the drainage of a road or portion thereof, and in any such case the municipal council may proceed upon a petition describing the road or part of road to be drained, and signed by the engineer or road superintendent appointed under *The Highway Improvement Act* by the department, county, commission or township having control over the road, and where the road forms the boundary between two municipalities, the council of either municipality may proceed on such petition.

Where
pumping,
embanking
required.

(3) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operation, but in every such case the municipal council shall not

proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to subsection 1.

(4) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, court of revision, county judge or referee, and such assessment may be termed "injuring liability". When lands may be assessed for "injuring liability".

(5) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, court of revision, county judge or referee, and such assessment may be termed "outlet liability". When lands may be assessed for "outlet liability".

(6) The owners of the lands and roads made liable to assessment under subsection 4 or 5 shall neither count for nor against the petition required by subsection 1 unless within the area therein described. Certain owners not to count for or against petition.

(7) The assessment for injuring liability and outlet liability provided for in subsections 4 and 5 shall be based upon the volume, and shall also have regard to the speed of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments. Basis of assessment.

(8) Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work, and such assessment shall be classified and scheduled as benefit. R.S.O. 1937, c. 278, s. 2. Benefit by cut off.

PETITION FOR CONSTRUCTION

3. The petition shall be according to Form 1, or to the like effect. R.S.O. 1937, c. 278, s. 3. Form of petition.

DUTIES OF ENGINEER OR SURVEYOR

Oath of
engineer or
surveyor.

4.—(1) Any engineer or surveyor employed or appointed by a municipal council to perform any work under this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty take and subscribe the following oath, and shall leave it with, or send it by registered letter post to the clerk of the municipality:

In the matter of the proposed drainage work (*or as the case may be*) in the township of (*name*).

I (*name in full*) of the Town of in the County of, Engineer (*or Surveyor*) make oath and say (*or do solemnly declare and affirm*):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the of
in the County of, this
day of, A.D. 19....

A Commissioner, etc.

Failure to
take oath
not to
invalidate.

(2) The failure of the engineer or surveyor to take the oath shall not invalidate any proceedings taken under this Act. R.S.O. 1937, c. 278, s. 4.

Assessment
of land
affected.

5.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but he shall nevertheless in his report show the approximate number of acres contained in the part affected by his assessment. R.S.O. 1937, c. 278, s. 5 (1).

Subdivision
of parcel
assessed.

(2) Where a parcel of land has been assessed by the engineer or surveyor, and one or more parts of that parcel is sold after the final revision of the assessment, the clerk of the municipality in which the parcel is situate shall direct the engineer or surveyor in writing to apportion the assessment charged against the parcel among the parts into which the parcel is divided.

Notice to
owners.

(3) The clerk shall send a copy of the direction by registered post to the owners of the parts into which the parcel is divided.

Apportion-
ment of
assessment.

(4) The engineer or surveyor in making the apportionment shall have regard to the part of the parcel affected by the drainage work, and shall make the apportionment in writing and file it with the clerk who shall attach it to the original assessment, and the apportionment shall be binding upon the lands assessed and the rate shall thereafter be levied and collected accordingly. 1949, c. 63, s. 1 (1).

(5) The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by the engineer. R.S.O. 1937, c. 278, s. 5 (3). Costs of engineer.

(6) Where an owner of lands not assessed for a drainage work subsequently connects the lands with the work for the purpose of drainage, the engineer or surveyor shall assess the owner for a just proportion of the work, regard being had to any compensation paid such owner in respect of the work, and thereupon every owner assessed for the work shall be given a proportionate reduction in the charges assessed against his land, but no owner shall connect such lands to the work without the approval of the council of the municipality. 1944, c. 40, s. 1 (2); 1949, c. 63, s. 1 (2). Subsequent connections with drainage work.

6. The assessment upon any lands or roads for any drainage work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be necessary to insert the fractional part of the whole cost to be borne by the lands or roads. R.S.O. 1937, c. 278, s. 6. Assessment may be shown in money.

7. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. R.S.O. 1937, c. 278, s. 7. Plans, specifications and estimates.

8.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by the work crossing any public highway or the travelled portion thereof, and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. Bridges and culverts on highways.

(2) Any municipality may pass a general by-law for the purpose of assuming, as a charge upon the general funds of the municipality, the whole or such portion as the by-law may determine of the construction and maintenance of all bridges or culverts rendered necessary by any drainage work crossing public highways, or portions thereof within the municipality, and when such a by-law has been passed, it shall not be repealed, except with the permission of the referee, and so long as the by-law remains unrepealed, the engineer or surveyor shall, in his assessment, apportion the cost of such bridges and culverts in accordance with the provision of the by-law. General by-law as to assessments for culverts, bridges on highways.

(3) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of Construction of access bridges.

bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work.

Farm
bridges.

(4) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges and water gate rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges and water gate in repair, and should the engineer or any surveyor deem it proper that any of such bridges should be constructed and maintained by the drainage scheme, he may so provide by his report.

Allowance
for sever-
ance.

(5) If the engineer or surveyor thinks it expedient to make an allowance for severance to the owner instead of providing for the construction, enlargement or other improvement of a bridge as provided by subsections 3 and 4, he shall in his report provide for payment to the owner of such amount as he may think just by way of allowance for severance, and shall in his assessment apportion such amount as he may think fit.

Allowance
for private
ditches.

(6) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respecting ditches or watercourses, which may be incorporated in whole or in part into the drainage work or used therewith.

Disposal of
material
taken from
drainage
work.

(7) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops, if any, occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs.

Allowance
for right
of way,
pumping
works.

(8) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any land belonging to such person, company or corporation which it is necessary to use for the purpose of the construction of a drainage work, or as a site for a pumping station to be used in connection with a drainage work, or as a means of access to any such pumping

station; provided, however, that in the latter case the engineer or surveyor may allow for right of way only if in his opinion such right of way is sufficient for the purposes of the drainage work.

(9) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low-lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

Assessment of compensation for damage to low lands instead of constructing drain to an outlet.

(10) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 30 days after the adoption of the engineer's report by the council, and the referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this subsection may make such order as to him seems just, and his decision shall be final.

Appeal to referee.

(11) Any owner of lands affected by the drainage work may appeal from the report of the engineer to the referee upon the ground that the benefits to be derived from the drainage work are not commensurate with the estimated cost thereof, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 30 days after the adoption of the engineer's report by the council, and the referee may hear and determine the appeal in a summary manner either on his own view of the area affected by the drainage work or any part or parts thereof and after hearing the parties and if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this subsection may make such order as to him seems just, and his decision shall be final.

Appeal to referee on ground of excessive cost.

Security for
costs of
appeal.

(12) No appeal under subsection 11 shall be proceeded with until the appellant has given security in the sum of \$100 to be deposited in money with the clerk of the initiating municipality that he will effectually prosecute the appeal and pay such costs as may be awarded by the referee if his appeal is dismissed. R.S.O. 1937, c. 278, s. 8 (1-12).

Appeal by
conservation
authority
having juris-
diction.
Rev. Stat.,
c. 62.

(13) Where the proposed drainage work is a work of construction and is to be undertaken within a watershed over which a conservation authority established under *The Conservation Authorities Act* has jurisdiction, the conservation authority may appeal from the report of the engineer to the referee upon the ground that the work will injuriously affect a scheme undertaken by the authority under the said Act, and the provisions of subsection 11 respecting the notice of appeal, the powers of the referee and the decision of the referee shall apply to any such appeal. 1949, c. 63, s. 2 (1), *part*.

Notice to
persons
assessed and
to owners
for whom
compensa-
tion assessed.

(14) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof, and where more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered. R.S.O. 1937, c. 278, s. 8 (13).

Notice to
conservation
authority
having
jurisdiction.

(15) Where the proposed drainage work is to be undertaken within a watershed over which a conservation authority established under *The Conservation Authorities Act* has jurisdiction, the clerk shall notify the secretary-treasurer of the authority in writing of the location and estimated cost of the work and of the date of the council meeting at which the report will be read and considered. 1949, c. 63, s. 2 (1), *part*.

Engineer to
report on
bench
marks.

(16) The engineer or surveyor shall also in his report, plans, specifications and profiles sufficiently record the descriptions, locations and elevations of every bench mark or permanent level by which a drainage work is to be governed.

Time for
filing report.

(17) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in its discretion from time to time appoint, and the council may adopt the report of the engineer if it sees fit notwithstanding that such report is made after

the six months herein fixed for making the same or after any extended period fixed by the council under this subsection, but if the engineer is unable to file his report within the time specified, the referee on the application of the engineer for an extension of time, may extend the time for the filing of the report, and shall notify the council of such extension.

(18) If the engineer neglects to make his report within the time limited by subsection 17, or within the time fixed by the council or referee under that subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer who shall have the same duties and powers as if originally appointed and employed.

If engineer neglects to do work, council may appoint another.

(19) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 17. R.S.O. 1937, c. 278, s. 8 (14-17).

By-law not to be invalid by reason of report not being filed within six months.

(20) Where a drainage work or a part of a drainage work is to be constructed, repaired, improved or maintained upon, along, adjoining, under or across the lands, permanent way, transmission lines, power lines, wires, conduits or other permanent property of a public utility, the public utility shall have the option of constructing, repairing, improving or maintaining such work or part.

Public utility may construct drainage work.

(21) In the event of the public utility not exercising the option and not completing such work or part within a reasonable time and without unnecessary delay, such work or part may be completed in the same manner and under the same authority as any other part of the work.

Non-exercise of option.

(22) In addition to all other sums lawfully assessed against the property of the public utility under this Act, and even if the public utility is not otherwise assessable under this Act, the public utility shall be assessed for and shall pay all the increase of cost of such work or part, caused by the construction and operation of the public utility.

Excess of cost, how borne.

(23) Where the public utility is to be assessed for the increase of cost of such work or part, caused by the construction and operation of the public utility, the council initiating the work shall serve the public utility with a copy of the report, plans and specifications, assessments or other estimates of the engineer or surveyor in connection with the work.

Copy of report, etc., to public utility.

Appeal by
utility to
referee.

(24) The public utility so served shall, at any time within three weeks after such service, have a right to appeal to the referee upon any question arising in connection with the work or part that is to be completed upon, along, adjoining, under or across its property.

Order of
referee.

(25) Upon an appeal under subsection 24, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from, and may make such order in the premises and as to the costs of the appeal as may be deemed just. 1949, c. 63, s. 2 (2).

Power to
plant
stakes, etc.

9.—(1) The engineer and his assistants when engaged in the performance of their duties during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant the stakes which he deems necessary for the performance of the work and take levels on the land of any person.

Engineer to
establish
bench
marks.

(2) The engineer or surveyor in making his survey shall establish sufficient bench marks or permanent levels by which a drainage work may be governed.

Penalty for
interfer-
ence with
work or
bench marks
of engineer.

(3) Any person who interferes with or obstructs the engineer or his assistants in the exercise of the powers conferred by subsection 1 or interferes with, removes or destroys any bench mark or permanent level mark established under subsection 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 278, s. 9.

Spreading
earth and
removing
timber on
road allow-
ances.

10. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling the road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than 12 feet of the middle of the road allowance, if required, and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. R.S.O. 1937, c. 278, s. 10.

COVERING DRAINAGE WORK

Report on
covering
drains.

11. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an

uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. R.S.O. 1937, c. 278, s. 11.

DISTINGUISHING ASSESSMENTS

12.—(1) The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the land and roads liable therefor respectively and in separate columns. Engineer to distinguish assessments.

(2) In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. R.S.O. 1937, c. 278, s. 12. Prior assessments to be taken into consideration.

13. The engineer or surveyor shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested and the lands therein assessed, and in what proportions. R.S.O. 1937, c. 278, s. 13. Engineer to report, if any other municipalities are interested and how.

14. Where the engineer or surveyor deems it equitable that the expense of maintenance of a drainage work be assessed upon a basis different from that upon which the expense of its construction is to be assessed, he shall determine and in a separate assessment schedule report the basis upon which the expense of maintenance of the whole work or of any portion or portions thereof shall be assessed. 1938, c. 24, s. 2. Variations in assessments for maintenance.

FILING REPORT

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. R.S.O. 1937, c. 278, s. 14. Engineer to file report.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under this Act shall, if required so to do by the council by which he was engaged, send in his accounts to such municipalities for his services, under oath, giving Engineer or surveyor to give detailed accounts of service under oath.

detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day, and the account shall also set out whether the work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself or that of a clerk or assistant.

Audit of
account.

(2) The account, upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the judge free of charge.

Appoint-
ment to
proceed.

(3) The clerk shall deliver the account to the judge, who shall appoint a time and place at which he will proceed with the audit.

Notice.

(4) The clerk shall give at least two days notice of the audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

Procedure
on audit.

(5) At the time and place named in the appointment the judge shall audit the account, and may disallow any charges which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. R.S.O. 1937, c. 278, s. 15.

NOTICE TO PERSONS ASSESSED

Clerk to
notify
parties
assessed.

17. The clerk of the municipality shall notify all parties assessed within the area described in the petition, by mailing to the owner of every parcel of land assessed therein for the drainage work, a circular or postal card upon which shall be stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's land and its assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall not be less than 10 days after the mailing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. R.S.O. 1937, c. 278, s. 16.

Proceed-
ings at
meeting for
considera-
tion of
report.

CONSIDERATION OF REPORT

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of

its previous meeting, cause the report to be read by the clerk to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do, and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one person benefited in favour of the petition. R.S.O. 1937, c. 278, s. 17.

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other reason the report or assessment should be reconsidered, may refer the report back to him for re-consideration, and the engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. R.S.O. 1937, c. 278, s. 18.

EFFECT OF WITHDRAWAL FROM PETITION

20. Should the petition at the close of such meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with section 2, then the persons who have withdrawn from the petition shall on their respective assessments in the report, with one hundred per cent added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. R.S.O. 1937, c. 278, s. 19.

Certain
by-laws
confirmed.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in the petition. R.S.O. 1937, c. 278, s. 20.

BY-LAWS

What by-
laws may be
passed by
council.

22. Should the council of the municipality in which the lands and roads described in the petition lie be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws,

Providing
for work.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be. R.S.O. 1937, c. 278, s. 21, par. 1.

Borrowing
funds.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the cost of appeal, if any, in sums of not less than \$50 each, and payable within 20 years from date, except in case of pumping and embanking drainage work the debentures for which shall be payable within 30 years from their date, with interest at such rate as the by-law may provide. R.S.O. 1937, c. 278, s. 21, par. 2; 1938, c. 24, s. 3.

Assessing
lands and
roads.

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads, including roads held by joint stock companies, railway companies, private individuals, counties or county councils, to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

Fixing time
for paying
assessment.

4. For regulating the times and manner in which the assessments shall be paid.

Determin-
ing property
to be bene-
fited.

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or

any person interested in any lands or roads to appeal as hereinafter provided. R.S.O. 1937, c. 278, s. 21, pars. 3-5.

23. The by-law shall, varying with the circumstances, be according to Form 2 or to the like effect. R.S.O. 1937, c. 278, s. 22.

Form of
by-law.

24.—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighbouring municipality, and designated by resolution of the council, with a notice of the time and place of holding the court of revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than 10 days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the referee during the six weeks next after the final passing of the by-law.

Publication
of by-law
and notice
of sitting of
court of
revision.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing the newspapers shall make a statutory declaration of such mailing and file the same with the clerk of the municipality publishing the by-law. R.S.O. 1937, c. 278, s. 23.

Newspapers
to be sent to
each person
assessed.

25. The council may at its option, instead of proceeding under section 24, by resolution direct that a copy of the by-law, the notice of the sitting of the court of revision and notice as to proceedings to quash be sent by registered mail to the last known address of each of the assessed owners or their lessees or the occupants of their lands or the agents of such owners, and a statutory declaration shall be made by the person effecting such service showing the date and manner thereof and the declarant shall file the declaration with the clerk of the municipality. 1944, c. 40, s. 2.

Service by
registered
mail in lieu
of publica-
tion.

26. If no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to or-

If by-law
not quashed
within time
limited.

dain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. R.S.O. 1937, c. 278, s. 25.

Debentures for separate drainage works may be consolidated.

27.—(1) Where two or more works have been undertaken and the by-laws provided for by section 22 or section 88 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by a consolidating by-law may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Particulars of by-law.

(2) A consolidating by-law shall show by recitals or otherwise in respect to which separate by-laws it is passed.

By-law need not provide rate for payment.

(3) It shall not be necessary that a consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Application of ss. 23 to 26.

(4) The provisions of sections 23 to 26 shall not apply to a consolidating by-law passed under this section. R.S.O. 1937, c. 278, s. 26.

COURT OF REVISION

Constitution and Powers

Where council has not more than five members.

28.—(1) If the council of the municipality consists of not more than five members, such five members shall be a court for the revision of the assessments for the drainage work. R.S.O. 1937, c. 278, s. 27.

Where council has more than five members.

(2) If the council consists of more than five members, it shall appoint five of its members to constitute the court of revision. R.S.O. 1937, c. 278, s. 28.

Oath.

29. Every member of the court of revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by law affirmation is allowed:

I,, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of such Court.

R.S.O. 1937, c. 278, s. 29.

30.—(1) Three members of the court of revision shall constitute a quorum, and the majority of a quorum may decide all questions before the court. Quorum.

(2) No member of the court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. Members not to act when interested.
R.S.O. 1937, c. 278, s. 30.

31.—(1) The clerk of the municipality shall be the clerk of the court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the court. Clerk of court.

(2) The summons to any witness issued by the clerk under this section may be in the following form: Form of summons.

You are hereby required to attend and give evidence before the Court of Revision at on the day of, 19...., in the matter of the drainage work (*naming or describing work*) and of the following appeal.

Appellant (*name of*).

A.B.

Clerk of the Township of

(3) The fees payable to any witness on an appeal to the court of revision shall be according to the scale of witness fees in the division court. Witness fees. R.S.O. 1937, c. 278, s. 31.

32. At the time appointed, the court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the court may adjourn from time to time as required. Meeting and adjournments.
R.S.O. 1937, c. 278, s. 32.

33. The evidence of witnesses shall be taken on oath and any member of the court may administer an oath to any party or witness. Evidence. R.S.O. 1937, c. 278, s. 33.

34. If any person summoned to attend the court of revision as a witness fails, without good and sufficient reason, to attend, having been tendered the proper witness fees, he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the proper division court, or in any way in which penalties incurred under any by-law of the municipality may be recovered. Witness failing to attend when summoned.
R.S.O. 1937, c. 278, s. 34.

Procedure for Trial of Complaints

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the Who may appeal.

assessment of his own land or of any roads of the municipality, or of the undercharge of any other lands or of any road in the municipality, or that lands or roads which should have been assessed have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality that he considers himself aggrieved for any or all the causes aforesaid. R.S.O. 1937, c. 278, s. 35.

Time for holding court of revision and for appeals thereto.

36. The trial of complaints shall be had in the first instance by and before the court of revision of the municipality in which the lands and roads assessed are situate, and the first sitting of the court shall be held pursuant to notice on some day not earlier than 20 nor later than 30 days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be, and notice of the first sitting of the court shall be published or served with the by-law, but the court may adjourn from time to time as occasion may require, and all notices of appeal shall be served on the clerk of the municipality at least 10 days prior to the first sitting of the court; but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. R.S.O. 1937, c. 278, s. 36.

Form of notice of complaint.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality; which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at on the day of, 19...., in the matter of the following appeal:

Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).
To J.K.

(Signed)

X.V.,
Clerk

R.S.O. 1937, c. 278, s. 37.

Serving notice.

38. The notice mentioned in section 37 shall be sent by letter addressed to such person at his post office address or at his last known address, at least seven days before the first sitting of the court. R.S.O. 1937, c. 278, s. 38.

39. The clerk of the court shall enter the appeals on a list Entry of appeals. in the order in which they are received by him, and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1937, c. 278, s. 39.

40. Such list may be in the following form:

Form of list of appeals.

Appeals from the assessment of the engineer on
drainage work, to be heard at the Court of Revision to be held at
....., commencing at 10 o'clock in the forenoon on the
..... day of, 19....

Appellant. Omitted or wrongly assessed. Matter complained of.

A.B.....	Self.....	Overcharge for benefit.
C.D.....	Self.....	Overcharge for outlet.
E.F.....	Self.....	Overcharge for injuring.
G.H.....	J.R.....	Undercharge for benefit.
L.M.....	N.O.....	Undercharge for outlet.
P.Q.....	R.S.....	Undercharge for injuring.
T.U.....	V.W.....	Wrongly omitted.
X.Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

R.S.O. 1937, c. 278, s. 40.

41. Where any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the court of revision or judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. R.S.O. 1937, c. 278, s. 41. Court of revision may take into consideration prior assessments.

42. When the ground of complaint is that lands or roads are assessed too high, and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the court or judge shall adjourn the hearing of the appeal for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which the hearing is adjourned, and the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the court or judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the assessment appealed against is reduced, if any, may be distributed *pro rata* over the assessments of its own class or otherwise so as to do justice to all parties. R.S.O. 1937, c. 278, s. 42. Adjournment of court to notify persons affected by alteration of assessment.

43. The clerk shall by registered letter immediately after the close of the court, notify all appellants of the result of Notice of result of appeal.

their appeals and also of the date of the closing of the court of revision. R.S.O. 1937, c. 278, s. 43.

Appeals from Court of Revision

Appeal to
county
judge.

44. An appeal from the court of revision shall lie to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court to hear or decide an appeal. R.S.O. 1937, c. 278, s. 44.

Time for
giving notice
of appeal.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within 10 days after the date of the closing of the court of revision, a written notice of his intention to appeal to the judge. R.S.O. 1937, c. 278, s. 45.

Clerk to
notify judge
and judge to
fix time and
place for
hearing
appeals.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the appeals to the judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding the hearing at the town hall or other place of meeting of the council of the municipality from the court of revision of which the appeal is made, unless the judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. R.S.O. 1937, c. 278, s. 46.

Notice to
persons
appealed
against.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the court of revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the judge may direct notice to be given for some subsequent day upon which he may try the appeals. R.S.O. 1937, c. 278, s. 47.

Time for
giving
judgment.

48. At the court so held the judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. R.S.O. 1937, c. 278, s. 48.

Clerk of
court.

49.—(1) The clerk of the municipality shall be the clerk of such court, and shall record the proceedings thereof and shall have the like powers as the clerk of a division court as to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the judge, for the attendance of any person as a witness before him.

Witness
fees.

(2) The fees to be allowed to witnesses upon an appeal to the judge under this Act shall be those allowed to witnesses in an action in the division court. R.S.O. 1937, c. 278, s. 49.

50. In all proceedings before the judge as aforesaid, he shall possess all such powers for compelling the attendance of and for the examination on oath of all parties and all other persons whomsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the division court or county court. R.S.O. 1937, c. 278, s. 50.

Powers of
judge on
appeal.

Fees and Costs of Appeals

51. The costs of any proceeding before the court of revision, or before the judge as aforesaid, shall be paid or apportioned between the parties in such manner as the court or judge thinks fit, and the same shall be enforced when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge, by execution to be issued as the judge may direct, either from the county court or any division court within the county in which the municipality is situate. R.S.O. 1937, c. 278, s. 51.

Apportion-
ment of
costs, en-
forcing pay-
ment.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the division court for such costs, and in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. R.S.O. 1937, c. 278, s. 52.

What costs
may be
awarded,
taxation of.

53. The judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the court of revision, \$5 per day and disbursements necessarily incurred. R.S.O. 1937, c. 278, s. 53.

Fees and
expenses
of judge.

54. The decision of the judge shall be final and conclusive. R.S.O. 1937, c. 278, s. 54.

Decision to
be final.

55. Any change in the assessment of the engineer or surveyor made by the court of revision or by the judge in appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the court of revision or judge. R.S.O. 1937, c. 278, s. 55.

Clerk to
alter assess-
ments con-
formably
with result
of appeals.

ISSUE OF DEBENTURES

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount

Debentures
may include
principal
and interest
in one sum.

payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. R.S.O. 1937, c. 278, s. 56.

Payment of assessment before debentures issued.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. R.S.O. 1937, c. 278, s. 57.

Informalities not to invalidate debentures.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. R.S.O. 1937, c. 278, s. 58.

When debentures to be valid and binding to extent of amount advanced.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. R.S.O. 1937, c. 278, s. 59.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY

Assessment of lands which are benefited.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by the work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

When work not deemed out of initiating municipality.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. R.S.O. 1937, c. 278, s. 60.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of the owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality. R.S.O. 1937, c. 278, s. 61.

Where area lies on either side of boundary road.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 10, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing the work as he may deem just. R.S.O. 1937, c. 278, s. 62.

Construction of drainage work on road allowance.

WORK CONTINUED INTO ANOTHER MUNICIPALITY

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet, and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just, and in his report thereon he shall estimate separately the cost of the work within each municipality and upon the road allowances or other boundaries. R.S.O. 1937, c. 278, s. 63.

Continuing work beyond the limits of municipality.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in section 63. R.S.O. 1937, c. 278, s. 64.

Assessing land in neighbouring municipality when work does not enter same.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES

Council of
initiating
municipality to
notify other
municipalities to
be affected.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. R.S.O. 1937, c. 278, s. 65.

Municipality notified to raise and pay over its proportion of cost.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 2, pass a by-law or by-laws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the referee or the Court of Appeal, and such council shall hold the court of revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. R.S.O. 1937, c. 278, s. 66.

Appeal to referee from report of engineer.

67.—(1) The council of any municipality served as provided by section 65 may, within six weeks after such service upon its head, appeal to the referee from the report, plans, specifications, assessments and estimates of the engineer or surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor, with a written notice of appeal setting forth therein the reasons for such appeal.

Grounds of appeal.

(2) The reasons for appeal which shall be set out in such notice may be the following or any of them,

(a) where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,

(i) that the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated,

- (ii) that the scheme does not provide for a sufficient outlet,
 - (iii) that the course of the drainage work, or any part thereof, should be altered,
 - (iv) that the drainage work should be carried to an outlet in the initiating municipality or elsewhere;
- (b) in any case not otherwise provided for,
- (i) that a petition has been received by the council of the appealing municipality, as provided by section 2, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition,
 - (ii) that the appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality,
 - (iii) that the initiating municipality should not be permitted to do the work within the limits of the appealing municipality,
 - (iv) that the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. R.S.O. 1937, c. 278, s. 67.

68.—(1) Upon an appeal under section 67 the referee shall ^{Powers of referee on} hear and adjudicate upon all questions raised by the notice ^{appeal.} of appeal, as they may affect any municipality assessed for the drainage work, and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

(2) The order of the referee upon such appeal shall be sub- ^{Appeal to} ^{Court of} ^{Appeal.} ject to appeal to the Court of Appeal as in other cases, and the decision of such Court shall be final and conclusive as to all corporations affected thereby.

Abandonment of work by initiating municipality.

(3) The council of the initiating municipality may, by resolution passed within 30 days after the decision of the referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the referee or the Court of Appeal may seem just. R.S.O. 1937, c. 278, s. 68.

AMENDING BY-LAWS

Amendment of by-law when insufficient funds provided.

69.—(1) Any by-law heretofore or hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands and roads in another municipality assessable.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates, and the council of any municipality so served shall have the same right of appeal to the referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

Amendment of by-law which provides more than sufficient funds and distribution of surplus.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the

assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work, and in case such assessment upon any land has been commuted or anticipated by payment in full, then payment shall be made to the owner of such lands as shown by the last revised roll of the municipality in all respects as if such assessment had not been so commuted or anticipated.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 73. R.S.O. 1937, c. 278, s. 69.

Amendment of by-law not providing sufficient funds.
Issuing debentures for completion of county drainage works commenced before passing of 57 V. c. 56.

70. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of section 69 shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of that section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. R.S.O. 1937, c. 278, s. 70.

Publication of amending by-laws.
Rev. Stat., c. 247.

MAINTENANCE OF DRAINAGE WORK

71. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality,

Maintenance of work not continued into another municipality.

- (a) if no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of the drainage work; or
- (b) if lands or roads in any other municipality or roads between two or more municipalities are in any way

assessed for the construction of the drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,

unless or until such assessment or proportion, as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the referee. R.S.O. 1937, c. 278, s. 71.

Maintenance of drainage work passing into another municipality.

72.—(1) Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and is continued thence into the lands of any other municipality shall after the completion thereof be maintained,

- (a) by the initiating municipality from the point of commencement of the work in the municipality or upon such road allowance to the point at which the work enters the lands or roads of another municipality; and
- (b) by the last-mentioned municipality and by every other municipality through or into which the work is continued from the point at which the work enters the lands or roads of the municipality,
 - (i) to an outlet in the municipality or on a road allowance adjoining the municipality, or
 - (ii) to the point at which the work enters the lands or roads of another municipality, as the case may be. R.S.O. 1937, c. 278, s. 72; 1949, c. 63, s. 3, *part*.

Cost of maintenance.

(2) Such maintenance shall be at the expense of the lands and roads in any way assessed for the construction of the work and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of the arbitrators or order of the referee until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the work or in appeal therefrom by the order of the referee.

(3) In clauses *a* and *b* of subsection 1, "lands or roads" does not include any road, stream or drainage work forming a boundary between municipalities. 1949, c. 63, s. 3, *part*. Interpretation.

73.—(1) Where a drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act. Maintenance of drains constructed by government or under county by-laws.

(2) Any drainage work constructed before such day under such authority which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the referee. When such drains extend into another municipality.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. R.S.O. 1937, c. 278, s. 73. Where work deemed to commence.

74.—(1) The council of any municipality undertaking the repair of any drainage work under sections 71, 72 or 73, shall before commencing the repairs serve upon the head of any Service of by-law on municipality liable for contribution, and appeal.

municipality liable to contribute any portion of the cost of such repairs under this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work, and the council of any municipality so served may, within 30 days thereafter, appeal from such by-law to the referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work, and the referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just, and his order upon such appeal shall be subject to appeal to the Court of Appeal, and the decision of that Court shall be final and conclusive as to all corporations affected thereby.

Council
served to
furnish
amount
required.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall within that period raise and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the referee. R.S.O. 1937, c. 278, s. 74.

Varying
original
assessments
on report
for main-
tenance.

75.—(1) The council of any municipality liable for contribution to a drainage work in connection with which conditions have changed or circumstances have arisen such as to justify a variation of the original assessment in respect of the drainage work may apply to the referee upon an application, of which notice has been given to the head of every other municipality interested, for permission to procure the report of an engineer or surveyor varying the original assessment, and in the event of such permission being given such council may procure the report of an engineer or surveyor as aforesaid and pass a by-law adopting the report, but if all the lands and roads assessed or intended to be assessed lie within the limits of one municipality, the council of that municipality may procure and adopt such report without such permission; but no report providing for the variation of an original assessment shall be valid unless the engineer or surveyor has been instructed by a resolution of the council to make such variation before he enters upon his duties in respect thereof.

Proceedings
on report
of engineer.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

(3) Any council served with a copy of such report and assessment may appeal to the referee from the finding of the engineer as to the portion of the cost of the work for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeals to the referee under this Act. Appeal from report of engineer.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a court of revision for the trial of any appeals in the manner hereinbefore provided. Appeal to court of revision.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby. Basis of future assessments. R.S.O. 1937, c. 278, s. 75.

IMPROVING WITHOUT REPORT

76. The council of any municipality whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of the municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the work to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800, and in every case where the cost of the improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 77. Deepening, widening or extending without report of engineer. R.S.O. 1937, c. 278, s. 76; 1949, c. 63, s. 4.

IMPROVING WITH REPORT

77.—(1) Wherever, for the better maintenance of any drainage work constructed under this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of the drainage work, or to make a new outlet for the whole or any part of the work, or to construct a tile drain under the bed of the whole or any portion of the drainage work as ancillary thereto, or to construct, reconstruct or extend protective banks, walls, dykes and other protective works as ancillary to the drainage work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of Improving upon examination and report by engineer.

the municipality or of any of the municipalities whose duty it is to maintain the drainage work may, without the petition required by section 2 but on the report of an engineer or surveyor appointed by them to examine and report on the same, undertake and complete the change of course, new outlet, tile drain, protective works, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, tile drain, protective works, improvement, extension, alteration or covering have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under this Act. R.S.O. 1937, c. 278, s. 77 (1); 1949, c. 63, s. 5.

Summary
appeal to
referee with
respect to
protective
works.

(2) Where protective banks, walls, dykes or other protective works provided for in subsection 1 are to be constructed, reconstructed or extended to prevent damage to any lands or roads, any owner affected by the drainage work to which the said protective works are ancillary, if dissatisfied with the report of the engineer by reason of the protective works being made ancillary to the drainage work or of the whole or any part of the cost thereof being assessed and charged as part of the drainage work or of any assessments and charges or the apportionment thereof set forth in the report, may appeal therefrom to the referee within the time and in the manner provided in subsection 10 of section 8, and the referee may hear and determine the appeal according to that subsection and his decision shall be final.

Application
of section.

(3) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, in the same manner, to the same extent, and by the same proceedings as are hereby made applicable to the better maintenance of a drainage work wholly artificial.

Future
mainten-
ance.

(4) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 75.

Report of
engineer as
to work
under ss. 71,
72 and 73
not essential.

(5) Nothing in this section or in section 76 shall be construed as requiring a municipal council to procure the report of an engineer before undertaking any work in pursuance of sections 71, 72 and 73. R.S.O. 1937, c. 278, s. 77 (2-5).

REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS

78.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 2, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under this Act.

Assessment for repair of work constructed out of general funds.

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended or provided with a new outlet for the whole or any part thereof. R.S.O. 1937, c. 278, s. 78.

Deepening of drain so constructed.

79.—(1) Where an engineer or surveyor is directed by the council to make an examination and report under section 77 or subsection 2 of section 78, and upon making such examination finds that the cost of changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the drainage work, then in lieu of such change of course, new outlet, improvement, extension or alteration or in lieu of any work, he may in his report estimate and provide for the compensation of the owners of such lands for any injuries sustained or likely to be sustained by reason of no sufficient capacity or sufficient outlet being provided, and he shall in his report determine the amount to be paid to the respective owners of such low-lying lands in respect of such injuries.

Assessing damage for overflow instead of repairing drain on report.

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of the engineer, may appeal therefrom to the referee in manner provided by subsection 10 of section 8, and the referee may hear and determine such appeal in the manner provided by that subsection. R.S.O. 1937, c. 278, s. 79.

Appeal to referee.

MANDAMUS TO COMPEL REPAIR

Power to
compel
repairs by
mandamus.

80.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the referee or other court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 71 to 78, or such of the said powers as to the referee or court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected.

Appeal
with
leave.

(2) Any party to such proceedings may by leave of the referee or of the Court of Appeal or a judge thereof, appeal to the Court of Appeal from the decision or judgment of the referee.

Time
limitation.

(3) A mandamus against the municipality shall not be moved for until after the lapse of 30 days from the date of the service of the notice.

Liability of
municipality
for damages
caused by
non-repair.

(4) Notwithstanding anything in subsection 1, the municipality whose duty it is to maintain and keep in repair a drainage work shall not become liable in pecuniary damages to any owner of land whose property is injuriously affected by reason of the non-repair of the drainage work, unless and until after service by or on behalf of such owner of notice in writing upon the reeve or clerk of the municipality, describing with reasonable certainty the alleged lack of repair of the drainage work.

No liability
where drain
blocked by
snow or ice.

(5) The corporation whose duty it is to maintain and keep in repair a drainage work shall not be liable in damages for any injury caused by reason of a drain on the highway being blocked by snow or ice and overflowing the lands of any person without negligence on the part of the corporation. R.S.O. 1937, c. 278, s. 80.

REPAIRS BY OWNERS

Duty of
owners as
to cleaning
out and
maintaining
banks.

81.—(1) The council of any municipality may pass a by-law or by-laws providing that the owner of every lot or part of a lot, assessed for benefit, shall clean out the drain and keep it free from obstructions which may hinder or impede the free flow of the water, and remove therefrom all weeds and brush-wood and keep the banks of the drain in order, to the extent and in manner or proportion and for the distance determined by the engineer in his report, and, where any such owner makes

default in so doing for 30 days after notice in writing from the council of the municipality, the work may be done by the council or by any officer appointed by it for the purposes of the drain, and the cost thereof, after notice of the same to the person so making default and liable therefor, shall be placed on the collector's roll against the lands of such owner and shall be chargeable against such lands and be collected in the same manner as other municipal or drainage assessments.

(2) The engineer or surveyor shall in his report state the portion of the drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in good order as prescribed by this section. R.S.O. 1937, c. 278, s. 81.

82.—(1) When any drainage work heretofore or hereafter constructed becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid and, if not so removed within the time specified in the notice, the council or the inspector shall forthwith cause the same to be removed.

(2) The council may, by by-law, appoint an inspector for the purposes mentioned in subsection 1, and shall in the by-law regulate the fees or other remuneration to be received by him.

(3) If the cost of removing the obstruction is not paid to the municipality by the owner or occupant of the lands liable, forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with 10 per cent added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the judge by the owner or occupant, in respect of the cost of the work. R.S.O. 1937, c. 278, s. 82.

83. The council of any municipality may by by-law direct that the inspector appointed under section 82 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible, and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of

the drainage work and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first-mentioned by-law, unless in the meantime the total expense incurred exceeds the sum of \$100. R.S.O. 1937, c. 278, s. 83.

CUTTING EMBANKMENTS, BANKS, ETC.

Penalty for injury to embankments, etc.

84. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$100 and shall also be liable to imprisonment for a term of not more than six months, and in default of payment of such penalty shall further be liable to imprisonment for a term of not more than three months. R.S.O. 1937, c. 278, s. 84.

REMOVING ARTIFICIAL OBSTRUCTIONS

Removal of dams on construction of work.

85. Wherever, in the construction of any drainage work, any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement as may be determined by the referee, to remove the same wholly or in part, and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. R.S.O. 1937, c. 278, s. 85.

OPERATING PUMPING WORKS

Appointment of commissioners for pumping works.

86.—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating the drainage work and for keeping the embankment thereof in repair as may be set

forth in the by-law appointing them, and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under this Act. R.S.O. 1937, c. 278, s. 86 (1); 1944, c. 40, s. 3.

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipment belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. R.S.O. 1937, c. 278, s. 86 (2).

Powers which may be granted to commissioners.

87. Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent as if such drainage work had been constructed under this Act, but at the cost of the lands and roads liable to be assessed for the work. R.S.O. 1937, c. 278, s. 87.

Assuming drainage works constructed by private persons.

DEBENTURES FOR MAINTENANCE

88.—(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

Power to issue debentures for cost of maintenance.

(2) Where such debentures are issued for work done under section 77, the debentures shall be payable within 20 years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision the debentures shall be payable within seven years from the date thereof.

Time at which debentures to be payable.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-law passed under this section, which has before its final passing been published or of which the ratepayers have been notified in manner provided by this Act or which has after its passing been promulgated under the provisions of *The Municipal Act*. R.S.O. 1937, c. 278, s. 88.

Application of Rev. Stat., cc. 247, 243.

PAYING BACK ADVANCES

Repayment of advances from general funds on receipt of assessments.

89. Any money which has been or hereafter is advanced by the council of any municipality out of its general funds for the purposes of any drainage work in anticipation of the levies and collections therefor shall be repaid into the general funds of the municipality as soon as the money first derived from the assessment is collected. R.S.O. 1937, c. 278, s. 89.

MUNICIPALITY ASSUMING AWARD DRAINS

Power to bring drains constructed under Rev. Stat., c. 105 within this Act.

90. Upon a petition presented to the council of any municipality as provided for in section 2 having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment in work, signed by a majority of the owners interested in such ditch or drain, the council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under this Act, and the passing of the by-law under this Act shall in every such case be a bar to any further proceedings upon the award or under the Act upon which the award is based. R.S.O. 1937, c. 278, s. 90.

COST OF REFERENCE AND INCIDENTAL EXPENSES

Expenses to be deemed part of the cost of the work.

91. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of the work and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. R.S.O. 1937, c. 278, s. 91.

LANDLORD AND TENANT

Tenant's covenant to pay taxes, when to include drainage assessments.

92. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands shall not include the charges and assessments for any drainage work unless the agreement in express terms so provides; but in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for drainage work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair and charged against the lands shall be borne

by the purchaser unless otherwise provided by the conveyance or agreement. R.S.O. 1937, c. 278, s. 92.

DRAINAGE REFEREES

93.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act and any other Acts and parts of Acts on the same subject. Referees, appointment of. Rev. Stat., 1887, c. 36.

(2) The referees shall be deemed to be and shall be officers of the Supreme Court. To be officers of Supreme Court.

(3) They shall be barristers of at least 10 years standing at the Bar of Ontario. Qualification.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office. Rev. Stat., c. 190.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise.

(6) They shall each be paid a salary of such amount as may be appropriated by the Legislature for the purpose, not exceeding \$3,500 a year, to be paid monthly, together with their reasonable travelling expenses. Salary.

(7) One of such referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in Ontario. Jurisdiction.

(8) Where either of the referees is absent or owing to illness or other cause is unable to act, or where the office of either referee is vacant, the remaining referee shall act and shall have jurisdiction as referee over the whole Province until the vacancy is filled or the other referee is able to act. R.S.O. 1937, c. 278, s. 93. Absence or illness.

94. The Lieutenant-Governor in Council instead of appointing referees under section 93 may designate the Ontario Municipal Board as the referee. 1946, c. 61, s. 1. Municipal Board may be referee.

95.—(1) The referee shall have the powers of an official referee under *The Judicature Act* and *The Arbitration Act*. Referee to have powers of an official referee under Rev. Stat., cc. 190, 20.

and of arbitrators under any former enactments relating to drainage works.

Additional powers.

(2) In respect to all applications and proceedings before him or which may come before him under this Act or any former Act relating to drainage works, he shall have the powers of a judge of the Supreme Court including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings, and he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties, and he may also grant an injunction or a mandamus in any matter before him under this Act.

Power to determine validity of proceedings and amend report.

(3) The referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question, and, with the engineer's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a county judge. R.S.O. 1937, c. 278, s. 94.

Interlocutory applications.

96. All interlocutory applications for any of the purposes mentioned in subsection 2 of section 95 shall be made to the referee and his order thereon shall be final and conclusive. R.S.O. 1937, c. 278, s. 95.

APPEALS FROM ASSESSMENT

Notice of appeal from assessment to be filed.

97. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the clerk of the county court of the county or union of counties in which the drainage work commenced. R.S.O. 1937, c. 278, s. 96.

Amendment of by-law to carry out decision of referee.

98. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to in-

corporate and carry into effect the decision or report of the referee or such decision or report as varied on appeal, as the case may be. R.S.O. 1937, c. 278, s. 97.

99.—(1) Subject to section 100, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined, as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the referee, who shall hear and determine the same and give his decision and his reasons therefor.

Application to set aside drainage by-law, report, petition or resolution to be made to referee.

(2) If the referee thinks that any proceeding under sub-section 1 could be more conveniently heard and tried by a county judge he may in his discretion request the county judge to hear and try such matter or proceeding, and any county judge acting upon such request shall have all the jurisdiction of the referee under this Act.

Trial by county judge.

(3) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, under this section, shall be instituted by serving 10 clear days notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned.

Proceedings to be instituted by notice.

(4) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose.

Notice to be filed in county court.

(5) All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not less than five days before the return day of the motion.

Affidavits to be filed before motion.

(6) Subject to section 100, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided.

Application not to be made otherwise.

(7) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the division court scale so far as the same is applicable.

Costs on claims not exceeding \$60 on division court scale.

Costs in
award of
damages for
non-repair.

(8) Where the amount awarded is upon a claim for damages by reason of the non-repair of a drainage work, the costs allowed shall be on the division court scale. R.S.O. 1937, c. 278, s. 98.

Actions may
be trans-
ferred to
referee.

100.—(1) Where an action is brought or is pending and the court in which the same is brought or is pending or a judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the referee on such terms as may be deemed just, and the referee shall thereafter give directions for the continuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Application
of section.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. R.S.O. 1937, c. 278, s. 99.

Decision of
Court of
Appeal to be
final.

101. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to the Court of Appeal and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. R.S.O. 1937, c. 278, s. 100.

Assessing
damages
and costs
payable by
municipalities.

102.—(1) Save as provided by subsections 2, 3 and 4 all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

Municipality in
default may
be ordered
to pay
damages
and costs.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof.

In cases of
settlement.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by

the advice of counsel, the damages and costs payable under the terms of the settlement by any municipality shall be borne and paid as directed by the referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the referee shall have regard to the provisions of subsection 2.

(4) Where in the opinion of the referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the drainage work, the referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter be assessed, levied and collected as if it were part of the actual cost of the drainage work. R.S.O. 1937, c. 278, s. 101.

Where extension of drainage work necessary.

CROSSING RAILWAY LANDS

103.—(1) Whenever by the report of an engineer or surveyor, drainage works are proposed to be carried upon, along, under or across the lands of any railway company, the council initiating the scheme shall serve the railway company with a copy of the report, plans, specifications, assessments or other estimates of the engineer or surveyor of the proposed works, and the company so served shall at any time within three weeks after such service have a right to appeal to the referee upon any question arising in connection with that portion of the drain or drainage work upon, along, under or across its railway or lands.

Carrying work through railway lands, service of report, etc., on company.

(2) Upon any appeal under subsection 1, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from and make such order in the premises as may be deemed just.

Jurisdiction of referee on appeal.

(3) The costs of such appeal shall be in the discretion of the referee. R.S.O. 1937, c. 278, s. 102.

Costs of appeal.

PROCEEDING WITH REFERENCE

104.—(1) The referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either

Referee to direct procedure.

or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

Clerk of court.

(2) The clerk of the county court shall be the clerk of the court of the referee, and shall take charge of and file all the exhibits, and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

Fees of clerk.

(3) The clerk shall be entitled to such fees as the referee may direct, not exceeding \$4 per day for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

To be paid in money.

(4) The fees payable to the clerk shall be paid in money and not in stamps.

Referee's clerk.

(5) In the absence of the clerk of the county court the referee may appoint the referee's clerk or some other person to act as clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the clerk of the county court would have and be entitled to if personally present.

Subpoenas.

(6) Subpoenas for the attendance of witnesses at the hearing, tested in the name of the referee, may be issued by the clerk of the county court of the county in which the case is to be heard.

Shorthand writer.

(7) Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the referee, and every such officer shall be deemed to be an officer of the Supreme Court, and shall be paid in the same manner as shorthand writers in the Supreme Court are paid and the sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. R.S.O. 1937, c. 278, s. 103.

Rev. Stat., c. 190.

When referee proceeds on view or special knowledge.

105. When the referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow the Court of Appeal to form a judgment of the weight which should be given thereto, and he shall state as part of his reasons the effect given by him to such statement. R.S.O. 1937, c. 278, s. 104.

106. The decision or report of the referee with the evidence, exhibits, and statement, if any, of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the clerk of the county court, and notice of the filing shall forthwith be given by the clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. R.S.O. 1937, c. 278, s. 105.

107. A copy of the decision or report certified by the referee or clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. R.S.O. 1937, c. 278, s. 106.

108. The decision or report of the referee shall be in the form of an order for judgment and may be delivered as decisions by the judges of the Supreme Court are, and need not be in the form of a report, and unless appealed from to the Court of Appeal, as herein provided, judgment may be entered in the proper office without any further or other application or order. R.S.O. 1937, c. 278, s. 107.

109. When an appointment is given by the referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a judge of the Supreme Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. R.S.O. 1937, c. 278, s. 108.

110. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the referee, be paid by the county or counties interested, like fees as for similar services at the sittings of the Supreme Court for the trial of causes. R.S.O. 1937, c. 278, s. 109.

111. Except as otherwise provided in this Act and subject to the provisions thereof, the rules and practice for the time being of the Supreme Court shall be followed so far as they are applicable. R.S.O. 1937, c. 278, s. 110.

112. In cases brought before the referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only

Clerk to forward notice of filing.

Report to be sent to clerk of each municipality interested.

Decision to be in form of order for judgment.

Use of court house.

Sheriffs, etc., to assist referee, fees therefor.

Rules and practice.

Evidence taken before referee need not be filed or written out.

be written out at length by the shorthand writer if required by the referee or by any parties to the reference, and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 278, s. 111.

Taxation
of costs.

113. Costs shall be taxed by the referee, or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed, or by any taxing officer of the Supreme Court. R.S.O. 1937, c. 278, s. 112.

Fees, how
to be paid.

114. Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in such courts respectively, until other provision is made in that behalf by competent authority. R.S.O. 1937, c. 278, s. 113.

Fees on
trial.

115. To provide a fund for or towards the payment of the referee's salary and other expenses, there shall be further payable a sum which shall be determined by the referee and mentioned in his decision or report or in a subsequent report; but such sum shall not exceed the rate of \$4 a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the referee directs. R.S.O. 1937, c. 278, s. 114.

Reports to
be stamped.

116. The decision or report of the referee shall not be given out until stamped with the necessary stamps. R.S.O. 1937, c. 278, s. 115.

Time for
appealing
to Court
of Appeal.

117.—(1) The decision or report of the referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to the Court of Appeal within one month after the filing thereof, or within such further time as the referee or the Court of Appeal or a judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the referee shall be final.

Procedure.

(2) The decision or report may be appealed against to the Court of Appeal in the same manner as from a decision of a judge of the Supreme Court sitting in court. R.S.O. 1937, c. 278, s. 116.

RULES AND TARIFF OF COSTS

Rules by
Rules
Committee.

118. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee shall have the same authority to make general rules with respect to proceedings before the

referee and appeals from him as it has with respect to proceedings under *The Judicature Act*, and section 109 of that Act Rev. Stat., c. 190. shall apply thereto. R.S.O. 1937, c. 278, s. 117; 1941, c. 55, s. 22 (1).

119. Subject to any such general rules the referee shall Referee may make rules. have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for. R.S.O. 1937, c. 278, s. 118 (1).

120. Until other provisions are made under sections 118 Tariff of county court adopted until rules made. and 119 the tariff of the county court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the referee shall have the power to fix counsel fees. R.S.O. 1937, c. 278, s. 119.

FORM 1

(Section 3)

FORM OF PETITION FOR DRAINAGE WORK

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of in the county of to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (*as the case may be, or describing the area by metes and bounds*), may be drained by means of:

1. A drain or drains.
2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (*name or other general designation*).
3. Lowering the water of lake or the pond known as (*name or other general designation*), (*or by any or all of said means*).

And your petitioners will ever pray:

R.S.O. 1937, c. 278, Form 1.

FORM 2

(Section 23)

FORM OF BY-LAW

A by-law to provide for drainage work in the of in the county of and for borrowing on the credit of the municipality, the sum of for completing the same (*or the sum of the proportion to be contributed by said municipality for completing the same*).

Provisionally adopted the day of, 19.....

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property hereinafter set forth to be benefited by drainage work (*as the case may be*) have petitioned the council of the said of praying that (*here set out the purport of the petition, describing generally the lands and roads to be benefited*).

And whereas, thereupon the said council has procured an examination, to be made by, being a person competent for such purpose, of the said area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assess-

ment under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by the said and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which, in his opinion, will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the said assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of the said in respect thereof, and of the said drainage work being as follows: (*here set out the report of the engineer or surveyor employed*).

And whereas the said council is of opinion that the drainage of the area described is desirable:

Therefore the council of the said of pursuant to the provisions of *The Municipal Drainage Act*, enacts as follows:

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (or mayor) of the said may borrow on the credit of the corporation of the said of the sum of dollars, being the funds necessary for the work *not otherwise provided for* (or being said municipality's proportion of the funds necessary for the work), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within years from the date of the said debentures with interest at the rate of per cent per annum, that is to say: (*insert the manner of payment annually and whether with or without coupons, and if the latter, omit the last clause of this paragraph*) such debentures to be payable at, and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$108), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for years, at the rate of per cent per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of Benefit.	Value of Outlet Liability.	Value of Injuring Liability.	To cover interest for ... year at ... per cent.	Total special rate.	Annual Assessment during each year for years.
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00				
10	S. 1/2 6	100	50 00	10 00				
10	N. 1/2 6	50	30 00	5 00				
10	S.W. 1/4 8	100	80 00	13 00				
10	S.W. 1/4 & N. 1/4 9	150	150 00	20 00				
10	4	200	.....	24 00				
10	S. 1/2 3	100	.....	13 00				
9	W. 1/2 5	100	.....		40 00			
9	N. 1/2 6	50	.....		25 00			
9	N.E. 1/4 & N. 1/2 7	150	.....		70 00			
Total for benefit.....			410 00	108 00	135 00			
" outlet.....			108 00					
" injuring.....			135 00					
Roads (and lands) of municipality.....			100 00					
Total.....			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for years at the rate of per cent per annum, a special rate in the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said of in each year for years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the newspaper, published in the town of (or printed and served or mailed as prescribed), and shall come into force upon and after the final passing thereof, and may be cited as the "..... By-law".

R.S.O. 1937, c. 278, Form 2.